

SUMMARY OF CYBERSPACE CASES RELATING TO JURISDICTION

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Case Name/Date/Cite	Court	Defendant Type	Contacts	Jurisdiction	Case Quote
Inset Systems v. Instruction Set, Inc.; April 17, 1996; 937 F. Supp. 161	D. Conn.	Corporate (Mass.)	Web site toll free number. [domain name dispute]	Yes	... once posted on the Internet, unlike radio and television advertising, the advertisement is available continuously to any Internet user. [Defendant] has therefore purposely availed itself of the privilege of doing business within Connecticut.
Playboy Enter., Inc. v. Chuckleberry Publishing, Inc.; June 19, 1996; 939 Fed. Supp. 1032	S.D.N.Y.	Corporate (Italian)	Web site, Subject of previous injunction order of the court. [violation of injunction]	Yes, based on prior order	The Internet is a world-wide phenomenon, accessible from every corner of the globe. [Defendant] cannot be prohibited from operating its Internet site merely because the site is accessible from within one country in which its product is banned. To hold otherwise "would be tantamount to a declaration that this Court, and every other court throughout the world, may assert jurisdiction over all information providers on the global World Wide Web." Def.Mem. at 2. Such a holding would have a devastating impact on those who use this global service. The Internet deserves special protection as a place where public discourse may be conducted without regard to nationality, religion, sex, age, or to monitors of community standards of decency.

Compuserve v. Patterson; July 22, 1996; 89 F.3d 1257	6th Cir. (Ohio)	Individual (Texas)	Web site, use of Ohio-based Compuserve as "distribution center" for shareware, contracts with Compuserve to be governed by Ohio law, e-mail and "snail mail" contacts, litigation threats directed to Ohio. [declaratory relief]	Yes	Someone like [defendant] who employs a computer network service ... to market a product can reasonably expect disputes with that service to yield lawsuits in the service's home state.
McDonough v. Fallon McElligott, Inc.; August 5, 1996; 1996 LEXIS 15139	S.D. Cal.	Corporate (Minnesota)	Web site, hired independent contractors in California, placed advertisements in publications delivered to California (but no significant California clients) [copyright infringement]	No	Because the Web enables easy world-wide access, allowing computer interaction via the Web to supply sufficient contacts to establish jurisdiction would eviscerate the personal jurisdiction requirement as it currently exists; the Court is not willing to take this step.
Naxos Resources (U.S.A.) Ltd. v. Southam Inc.; August 16, 1996; 1996 WL 662451	C.D. Cal.	Corporate	Allegedly defamatory article available on the Internet, limited number of copies of Vancouver Sun (in which article appeared) distributed in California [defamation]	No	While publication of the article on computer on-line services might be relevant for a specific jurisdiction analysis, it does not suffice to confer general jurisdiction.

Maritz, Inc. v. Cybergold, Inc.; August 19, 1996; 947 F. Supp. 1328	E.D. Mo.	Corporate (California)	Web site accessed at least 311 times by internet users in Missouri (180 of those times by plaintiff), effect of tortious conduct in Missouri [trademark infringement]	Yes	Through its website, [defendant] has consciously decided to transmit advertising information to all internet users, knowing that such information will be transmitted globally. Thus, [defendant's] contacts are of such a quality and nature, albeit a very new quality and nature for personal jurisdiction jurisprudence, that they favor the exercise of personal jurisdiction over defendant.
Bensusan Restaurant Corp. v. King; September 9, 1996; 937 F. Supp. 295	S.D.N.Y.	Individual (Missouri)	Web site only [trademark infringement]	No	[Defendant], like numerous others, simply created a Web site and permitted anyone who could find it to access it. Creating a site, like placing a product into the stream of commerce, may be felt nationwide -- or even worldwide -- but, without more, it is not an act purposefully directed toward the forum state.
Panavision International, L.P. v. Toeppen; September 19, 1996; 938 F. Supp. 616	C.D. Cal.	Individual (Illinois)	Web site only, effect of tortious conduct in California [domain name dispute]	Yes	It is important to note that the Court does not hold that [defendant] is "doing business" in California via the Internet.... Here, ... [Defendant] is not conducting a business but is, according to Panavision, running a scam directed at California.
Edias Software Intern. L.L.C. v. Basis Intern. Ltd.; November 21, 1996; 413 F. Supp. 413	D. Ariz.	Corporate (New Mexico)	Web site, phone calls, faxes, e-mails, sale of products to Arizona customers, visits to the state, effect of tortious conduct in Arizona [breach of contract, defamation]	Yes	This court ... agrees ... that [defendant] should not be permitted to take advantage of modern technology through an Internet Web page and forum and simultaneously escape traditional notions of jurisdiction.

Minnesota v. Granite Gate Resorts, Inc.; December 11, 1996; 1996 WL 767431	D. Minn.	Corporate and Individual (Nevada)	Web site, 900 number, mailing list, fraudulent scheme [consumer protection]	Yes	The Defendants attempt to hide behind the Internet and claim that they mailed nothing to Minnesota, sent nothing to Minnesota, and never advertised in Minnesota. This argument is not sound in the age of cyberspace. Once the Defendants place an advertisement on the Internet, that advertisement is available 24 hours a day, seven days a week, 365 days a year to any Internet user until the Defendants take it off the Internet.
Heroes, Inc. v. Heroes Foundation; December 19, 1996; 958 F. Supp. 1	D.D.C.	Non-profit Corporation (New York)	Advertisement in the Washington Post, Web site on which donations are solicited [trademark infringement]	Yes	--
IDS Life Insurance Co. v. SunAmerica, Inc.; January 3, 1997; 958 F. Supp. 1258	N.D. Ill.	Corporate (Maryland/California)	Borrowed from Chicago bank, Internet site, toll-free number, advertising in national newspapers and television [unfair competition, various intellectual property claims]	No	It cannot plausibly be argued that any defendant who advertises nationally could expect to be hauled into court in <u>any</u> state, for a cause of action that does not relate to the advertisements.
Zippo Manufacturing Company v. Zippo Dot Com, Inc.; January 16, 1997; 952 F. Supp. 1119	W.D. Pa.	Corporate (California)	3000 Pennsylvania subscribers to defendant's Internet news service, contracts with 7 Pennsylvania access providers [domain name dispute]	Yes	... the likelihood that personal jurisdiction can be constitutionally exercised is directly proportionate to the nature and quality of commercial activity that an entity conducts over the Internet. This sliding scale is consistent with well developed personal jurisdiction principles. At one end of the spectrum are situations where a defendant clearly does business over the Internet. If the defendant enters into contracts with residents of a foreign jurisdiction that involve the knowing and repeated transmission of computer files over the Internet, personal

					jurisdiction is proper. <u>[CompuServe, Inc.]</u> At the opposite end are situations where a defendant has simply posted information on an Internet Web site which is accessible to users in foreign jurisdictions. A passive Web site that does little more than make information available to those who are interested in it is not grounds for the exercise personal jurisdiction. <u>[Bensusan Restaurant Corp.]</u> The middle ground is occupied by interactive Web sites where a user can exchange information with the host computer. In these cases, the exercise of jurisdiction is determined by examining the level of interactivity and commercial nature of the exchange of information that occurs on the Web site. <u>[Maritz, Inc.]</u>
Cody v. Ward; February 4, 1997; 954 F. Supp. 43	D. Conn.	Individual (California)	Bulletin board, e-mail, telephone calls, tortious conduct directed to Connecticut [stock fraud]	Yes	My conclusion that the defendant's telephone calls and e-mail messages to the plaintiff in Connecticut provide an adequate basis for exercising specific personal jurisdiction makes it unnecessary to decide whether the defendant's Prodigy messages should be counted as purposeful contacts with Connecticut.
Hearst Corporation v. Goldberger; February 26, 1997; 1997 WL 97097	S.D.N.Y.	Individual (New Jersey)	Web site, e-mail messages [trademark infringement]	No	Where, as here, defendant has not contracted to sell or actually sold any goods or services to New Yorkers, a finding of personal jurisdiction in New York based on an Internet web site would mean that there would be nationwide (indeed, worldwide) personal jurisdiction over anyone and everyone who establishes an Internet web site. Such nationwide jurisdiction is not consistent with traditional personal jurisdiction case law nor acceptable to the Court as a matter of policy.

Digital Equip. Corp. v. Altavista Technology, Inc.;	D. Mass.	Corporate (California)	Contract with plaintiff, web site, 3 sales in Massachusetts [breach of contract; trademark infringement]	Yes	To impose traditional territorial concepts on the commercial uses of the Internet has dramatic implications, opening the Web user up to inconsistent regulations throughout fifty states, indeed, throughout the globe. It also raises the possibility of dramatically chilling what may well be "the most participatory marketplace of mass speech that this country--and indeed the world--has yet seen." <u>ACLU v. Reno</u> , 929 F.Supp. 824, 881 (E.D.Pa.1996). As a result courts have been, and should be, cautious in applying traditional concepts.
Resuscitation Technologies, Inc. v. Continental Health Care Corp.;	S.D. Ind.	Corporate and Individuals (New York)	E-mail, letter of intent, proposed business operation in Indiana [breach of contract]	Yes	As indicated by the decision in Zippo, this notion of transacting business over the Internet involves examining the level of interactivity, and the commercial nature of the exchange of information that occurs.... The quality of those electronic contacts is measured with reference to the intended object of that activity. This process is particularly important when, as here, the dispute is about whether or not a contract was formed between two parties by reason of their use of the Internet or other electronic transmissions. Such a dispute is analogous analytically to a dispute over possible trademark infringement... or fraud...or defamation.... Each of these types of cases have a common factual inquiry that requires a direct examination of the nature and content of their Internet communications to resolve it. Under such circumstances, courts have found sufficient minimum contacts to exercise specific jurisdiction over a case or controversy arising from those contacts. [citations omitted]
CD Solutions, Inc. v. Tooker;	N.D. Tex.	Individual and Corporate (Oregon)	Web site - advertise and sell products over the Internet [domain name dispute - declaratory relief]	No. Cause of action did not arise out of contacts.	The question whether defendants used the CDS mark in Texas is irrelevant to the specific jurisdiction determination in this case because [plaintiff's] declaratory judgment action does not arise out of such contacts.

Graphic Controls Corp. v. Utah Med. Products, Inc.; May 21, 1997; 1997 WL 276232	W.D.N.Y.	Corporate (Utah)	Toll-free number and web site sales of product through independent representatives. [patent infringement - declaratory relief]	No	... the toll-free nationwide telephone number and the computer information available nationwide via the Internet simply require a person's use of a telephone or computer in any state and do not demonstrate [defendant's] purposeful availment of the benefits and protections provided in each or any of such fora....
Hall v. LaRonde; August 7, 1997; 1997 WL 447002	Cal.App. 2 Dist.	Individual (New York)	E-mail and telephone communications, software distribution contract with plaintiff [breach of contract]	Yes	... we do not believe that the physical presence of a representative of the defendant in California should be determinative. Much has happened in the role that electronic communications plays in business transactions since Interdyne was decided more than 20 years ago. The speed and ease of such communications has increased the number of transactions that are consummated without either party leaving the office. There is no reason why the requisite minimum contacts cannot be electronic.